

IC 31-19-26.5

Chapter 26.5. Adoption Subsidies

IC 31-19-26.5-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 31-3-1-4 and IC 31-3-3-2 (before their repeal) by P.L.98-1990 apply to a petition for adoption that:

- (1) seeks the payment of a subsidy; and
- (2) is filed after June 30, 1990.

As added by P.L.220-2011, SEC.505.

IC 31-19-26.5-1

"Adoption subsidy"

Sec. 1. As used in this chapter, "adoption subsidy" means payments by the department to an adoptive parent of a child with special needs to assist with the cost of care of the child:

- (1) after a final decree of adoption of the child has been entered under IC 31-19-11; and
- (2) during the time the child is residing with and supported by the adoptive parent or parents.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-2

"Child with special needs"

Sec. 2. As used in this chapter, "child with special needs" means a child who:

- (1) is a hard to place child; and
- (2) meets the requirements of a special needs child, as specified in 42 U.S.C. 673(c) and the rules of the department applicable to those requirements.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-3

Conditions for payment of adoption subsidies

Sec. 3. The department may make payments of adoption subsidy under this chapter for the benefit of a child with special needs if the department has:

- (1) either:
 - (A) entered into a written agreement with the adoptive parent or parents, before or at the time the court enters a final decree of adoption under IC 31-19-11-1, that specifies the amount, terms, and conditions of the adoption assistance payments; or
 - (B) received a written final order in an administrative appeal in accordance with section 12(4) of this chapter concluding that the adoptive parents are eligible for a subsidy payable under this chapter and determining the appropriate subsidy amount;
- (2) determined that sufficient funds are available in the

adoption assistance account of the state general fund, and can reasonably be anticipated to be available in that account during the term of the agreement or order, to make the payments as specified in the agreement or order; and

(3) determined that the child is not eligible for adoption assistance under 42 U.S.C. 673.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-4

Priority for funding if funds are insufficient

Sec. 4. If the department determines that sufficient funds are not or will not be available in the adoption assistance account established under this chapter to make adoption subsidy payments to adoptive parents of all children who may be eligible for a subsidy payable under this chapter, the department may, in accordance with procedures established by rules:

(1) approve new adoption subsidy agreements only for the benefit of children for whom the department has wardship responsibility at the time the adoption petition is filed; or

(2) give priority to funding new adoption subsidy agreements for children for whom the department has had wardship responsibility.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-5

Maximum amount of adoption subsidy

Sec. 5. The amount of adoption subsidy payments under this chapter may not exceed the amount that would be payable by the department for the monthly cost of care of the adopted child in a foster family home at the time:

(1) the adoption subsidy agreement is made; or

(2) the subsidy is payable under the terms of the agreement;

whichever is greater.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-6

Additional payments under certain conditions

Sec. 6. (a) In addition to the adoption subsidy payments determined under section 3 of this chapter, the department may make additional payments for medical or psychological care or treatment of the adoptive child if all the following conditions exist:

(1) The child is a child with special needs, based in whole or in part on a physical, a mental, an emotional, or a medical condition that:

(A) existed before the filing of the adoption petition; or

(B) is causally related to specific conditions that existed or events that occurred before the filing of the adoption petition;

as determined by a physician or psychologist licensed in Indiana.

(2) The child's adoptive parent has applied to the department, in the form and manner specified by the department, for assistance in payment of the cost of special services that the child needs to remedy or ameliorate the condition or conditions identified in subdivision (1).

(3) The department determines that:

(A) the services required are not and will not be covered by either:

(i) private health insurance available to the child or adoptive parent; or

(ii) the Medicaid program in Indiana or the state where the child currently resides; and

(B) payment of the cost of the required services without assistance will cause a significant financial burden and hardship to the adoptive family.

(4) Sufficient funds are available in the adoption assistance account to cover the cost of additional assistance provided under this section.

(b) A determination by the department under this section is not subject to administrative review or appeal, unless specifically authorized by rule of the department under section 12(4) of this chapter, but is subject to judicial review as provided in IC 4-21.5-5. *As added by P.L.146-2008, SEC.562.*

IC 31-19-26.5-7

Certain children eligible for Medicaid

Sec. 7. An adoptive child who is:

(1) a child with special needs based on a medical, a physical, a mental, or an emotional condition that existed before the filing of the adoption petition; and

(2) the beneficiary of an agreement for adoption subsidy under this chapter;

is eligible for Medicaid.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-8

Submission of reports; modification or discontinuance of adoption subsidy payments

Sec. 8. (a) As a condition for continuation of subsidy payments under the agreement, the department may require the adoptive parents to submit a verified report, annually or at a time or times specified in the agreement or by rule, stating:

(1) the location of the parents;

(2) the location and condition of the child; and

(3) any additional information required by rule of the department or the agreement.

(b) The department may confirm the accuracy and veracity of the report from any reliable sources of information concerning the adoptive family and child, including any governmental or private agency that serves the area in which the child resides.

(c) If the report or information received by the department indicates a substantial change in the conditions that existed when the adoption subsidy agreement was signed, the department may, after notice to the adoptive parent or parents, modify or discontinue the adoption subsidy payments provided in the agreement.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-9

Limits on term of adoption subsidy agreement

Sec. 9. (a) Except as provided in this section, the term of any adoption subsidy agreement under this chapter, including any extension of the original term, ends when any of the following events occurs:

- (1) The child becomes eighteen (18) years of age.
- (2) The child becomes emancipated.
- (3) The adoptive parent or parents are no longer providing financial support to the child.
- (4) The child dies.
- (5) The child's adoption is terminated.

(b) The department may continue the adoption subsidy payments, in amounts determined by agreement among the department, the child, and the adoptive parents, during a time after the child becomes eighteen (18) years of age and before the child becomes twenty-one (21) years of age if:

- (1) either:
 - (A) the child is enrolled in:
 - (i) a secondary school;
 - (ii) a public or private institution of higher education; or
 - (iii) a course of career or technical education leading to gainful employment; or
 - (B) the child needs continuing support and assistance for a physical, a medical, a mental, or an emotional condition that limits or prevents the child from becoming self-supporting; and
- (2) the adoptive parent or parents:
 - (A) provide the principal source of financial support for the child's room, board, medical care, and other necessary living expenses; and
 - (B) are entitled to claim the child as a dependent on their federal or state income tax return or returns for the year in which the continued subsidy payments are made.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-10

Adoption assistance account

Sec. 10. An adoption assistance account is established within the state general fund for the purpose of funding adoption subsidy payments under this chapter and the state's share of adoption assistance payments under 42 U.S.C. 673. The account consists of:

- (1) amounts specifically appropriated to the department by the

- general assembly for adoption assistance;
- (2) amounts allocated by the department to the adoption assistance account from the funds available to the department; and
- (3) any other amounts contributed or paid to the department for adoption assistance under this chapter.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-11

Priority for payments required by court orders

Sec. 11. (a) In determining the availability of funds in the adoption assistance account for payments of adoption subsidies under this chapter, the department shall give priority to payments required by court orders for county adoption subsidies entered under IC 31-19-26 (before its repeal).

(b) The provisions of this chapter applicable to continuation, modification, or termination of adoption subsidy payments shall apply after January 1, 2009, to county adoption subsidy orders entered under IC 31-19-26 (before its repeal).

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-12

Adoption of rules

Sec. 12. The department shall adopt rules under IC 4-22-2, as needed, to carry out this chapter. The rules must include at least the following subjects:

- (1) The application and determination process for subsidies or other assistance provided under this chapter.
- (2) The standards for determination of a child with special needs.
- (3) The process for determining the duration, extension, modification, and termination of agreements, as provided in sections 8 and 9 of this chapter.
- (4) The procedure for administrative review and appeal of determinations made by the department under this chapter.
- (5) The procedure for determining availability of funds for new subsidy agreements and continuation of existing agreements or orders under this chapter and IC 31-19-26 (before its repeal), including any funding limitations or priorities as provided in sections 4 and 11 of this chapter.

As added by P.L.146-2008, SEC.562.

IC 31-19-26.5-13

Applicability of chapter

Sec. 13. This chapter does not affect:

- (1) the legal status of an adoptive child;
- (2) the rights and responsibilities of the adoptive parents as provided by law; or
- (3) the eligibility of an adoptive child or adoptive parents for adoption assistance under Title IV-E of the Social Security Act

(42 U.S.C. 673), federal and state regulations applicable to the Title IV-E adoption assistance program, or determination of the amount of any assistance provided by the department through the Title IV-E adoption assistance program.

As added by P.L.146-2008, SEC.562.